

(2) *Certain special purpose savings associations.* This part does not apply to special purpose savings associations that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These associations include banker's banks, as defined in 12 U.S.C. 24 (Seventh), and associations that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent associations, trust companies, or clearing agents.

[60 FR 22212, May 4, 1995, as amended at 62 FR 67708, Dec. 30, 1997]

#### § 563e.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 563e.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the savings association at which deposits are received, cash dispersed, or money lent.

(e) [Reserved]

(f) *Branch* means a staffed banking facility authorized as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(g) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or

(4) Activities that revitalize or stabilize—

(i) Low- or moderate-income geographies;

(ii) Designated disaster areas; or

(iii) Distressed or underserved, non-metropolitan middle-income geographies designated by OTS based on—

(A) Rates of poverty, unemployment, and population loss; or

(B) Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.

(h) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose savings association:

(i) Has not been reported or collected by the savings association or an affiliate for consideration in the savings association's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in appendix A to part 203 of this title); and

(ii) Benefits the savings association's assessment area(s) or a broader statewide or regional area that includes the savings association's assessment area(s).

(i) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

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(3) Has not been considered in the evaluation of the savings association's retail banking services under § 563e.24(d).

(j) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan*, which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan*, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in § 226.2 of this title;

(3) *Home equity loan*, which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan*, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan*, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(k) *Geography* means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(l) *Home mortgage loan* means a "home improvement loan," "home purchase loan," or a "refinancing" as defined in § 203.2 of this title.

(m) *Income level* includes:

(1) *Low-income*, which means an individual income that is less than 50 percent of the area median income or a median family income that is less than 50 percent in the case of a geography.

(2) *Moderate-income*, which means an individual income that is at least 50 percent and less than 80 percent of the area median income or a median family income that is at least 50 and less than 80 percent in the case of a geography.

(3) *Middle-income*, which means an individual income that is at least 80 percent and less than 120 percent of the area median income or a median family income that is at least 80 and less than 120 percent in the case of a geography.

(4) *Upper-income*, which means an individual income that is 120 percent or more of the area median income or a median family income that is 120 percent or more in the case of a geography.

(n) *Limited purpose savings association* means a savings association that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose savings association is in effect, in accordance with § 563e.25(b).

(o) *Loan location*. A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(p) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(q) *Metropolitan division* means a metropolitan division as defined by the Director of the Office of Management and Budget.

(r) *MSA* means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Nonmetropolitan area* means any area that is not located in an MSA.

(t) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(u) *Small bank*—(1) *Definition*. Small bank means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.122 billion. Intermediate small bank means a small bank with assets of at least \$280 million as of December 31 of both of the prior two calendar years and less than \$1.122 billion as of December 31 of either of the prior two calendar years.

(2) *Adjustment*. The dollar figures in paragraph (u)(1) of this section shall be adjusted annually and published by the

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OTS, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

(v) *Small business loan* means a loan included in “loans to small businesses” as defined in the instructions for preparation of the Thrift Financial Report.

(w) *Small farm loan* means a loan included in “loans to small farms” as defined in the instructions for preparation of the Thrift Financial Report.

(x) *Wholesale savings association* means a savings association that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale savings association is in effect, in accordance with § 563e.25(b).

[60 FR 22212, May 4, 1995, as amended at 60 FR 66050, Dec. 20, 1995; 61 FR 21364, May 10, 1996; 69 FR 41188, July 8, 2004; 69 FR 51161, Aug. 18, 2004; 71 FR 18618, Apr. 12, 2006; 72 FR 13435, Mar. 22, 2007; 72 FR 72573, Dec. 21, 2007; 73 FR 78155, Dec. 22, 2008; 74 FR 68664, Dec. 29, 2009; 75 FR 82219, Dec. 30, 2010]

EFFECTIVE DATE NOTE: At 75 FR 79286, Dec. 20, 2010, § 563e.12 was amended by republishing the introductory text of paragraph (g); removing the word “or” at the end of paragraph (g)(3); removing the period at the end of paragraph (g)(4)(iii)(B) and adding “; or” in its place; and adding a new paragraph (g)(5), effective Jan. 19, 2011. For the convenience of the user, the republished and added text is set forth as follows:

### § 563e.12 Definitions.

\* \* \* \* \*

(g) *Community development* means:

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(5) Loans, investments, and services that—

(i) Support, enable or facilitate projects or activities that meet the “eligible uses” criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-289, 122 Stat. 2654, as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development in accordance with the Neighborhood Stabilization Program (NSP);

(ii) Are provided no later than two years after the last date funds appropriated for the

NSP are required to be spent by grantees; and

(iii) Benefit low-, moderate-, and middle-income individuals and geographies in the savings association’s assessment area(s) or areas outside the savings association’s assessment area(s) provided the savings association has adequately addressed the community development needs of its assessment area(s).

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## Subpart B—Standards for Assessing Performance

SOURCE: 60 FR 22213, May 4, 1995, unless otherwise noted.

### § 563e.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The OTS assesses the CRA performance of a savings association in an examination as follows:

(1) *Lending, investment, and service tests.* The OTS applies the lending, investment, and service tests, as provided in §§ 563e.22 through 563e.24, in evaluating the performance of a savings association, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose savings associations.* The OTS applies the community development test for a wholesale or limited purpose savings association, as provided in § 563e.25, except as provided in paragraph (a)(4) of this section.

(3) *Small savings association performance standards.* The OTS applies the small savings association performance standards as provided in § 563e.26 in evaluating the performance of a small savings association or a savings association that was a small savings association during the prior calendar year, unless the savings association elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other savings associations under § 563e.42.